

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

1740 W. ADAMS ST., SUITE 4600, PHOENIX, ARIZONA 85007

PHONE (602) 364-1PET (1738) FAX (602) 364-1039

VETBOARD.AZ.GOV

RECEIVED
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BY:

COMPLAINT INVESTIGATION FORM

If there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY

Date Received: Aug. 8, 2018 Case Number: 19-13

A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:

Name of Veterinarian/CVT: Dr. Anthony Alber
Premise Name: Prestige Animal Clinic
Premise Address: 700 W Ray Rd
City: Gilbert State: AZ Zip Code: 85233
Telephone: (480) 719-2313

B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:

Name: Mindy Jett
Address: [REDACTED]
City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]
Home Telephone: [REDACTED] Cell Telephone: [REDACTED]

*STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.

C. PATIENT INFORMATION (1):

Name: Brie
Breed/Species: Pug/Dog
Age: 9 Sex: Female Color: Fawn

PATIENT INFORMATION (2):

Name: _____
Breed/Species: _____
Age: _____ Sex: _____ Color: _____

D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE:

Please provide the name, address and phone number for each veterinarian.
Dr. Dana Caldwell
86 W. Juniper Ave.
Gilbert, AZ 85233
(480) 497-0222

Shery Babyak, DVM
1233 West Warner Road
Chandler, AZ 85224

E. WITNESS INFORMATION:

Please provide the name, address and phone number of each witness that has direct knowledge regarding this case.
Edwin Jett
[REDACTED]
[REDACTED]
[REDACTED]

Attestation of Person Requesting Investigation

By signing this form, I declare that the information contained herein is true and accurate to the best of my knowledge. Further, I authorize the release of any and all medical records or information necessary to complete the investigation of this case.

Signature: M. Jett

Date: 8/5/18

Lindy Jett

F. ALLEGATIONS and/or CONCERNS:

Please provide all information that you feel is relevant to the complaint. This portion must be either typewritten or clearly printed in ink.

On May 21, 2015, I took my pug, Brie, in to Prestige Animal Clinic for a routine exam, heart worm test, and rabies shot. There we saw Dr. Anthony Alber. He gave her the exam, and as we were talking, injected her with a shot. This was surprising to me, because in the past he normally told me what he was doing and/or took her out of the room. Following the shot, it was discovered that he had accidentally injected her with a feline rabies shot. Apparently the tech had given him the wrong one, and he failed to check it beforehand. He sent us home saying everything should be ok.

Within the next two days, Brie became very lethargic to the point where she had to be rushed to the Emergency Animal Clinic in Gilbert. Dr. Dana Caldwell took care of her there and Brie had to have two blood transfusions and many other procedures because of her extreme anemia. Dr. Caldwell then diagnosed Brie with IMHA, saying it had been triggered by the rabies shot. Brie was discharged after approximately two days.

I contacted Dr. Alber, hoping he would take financial responsibility for this and future vet and medication bills for Brie. He gave me the phone number for his insurance company, who ultimately agreed to pay only for her emergency room visit.

There have been many, many vet bills and medications since. Brie and I found out the hard way that IMHA can cause tear ducts to stop working, and subsequently, she has had ulcers form in both of her eyes. The first eye required such care that she could not go more than two hours without medicine for months. I had to take time off work and create spreadsheets to keep track of when she had to take her (many) meds.

Brie was also referred to an internal medicine specialist - Dr. Babyak. This, and the ongoing care at Eye Care for Animals and her primary vet at Dobson Ranch Animal Hospital, has caused quite a financial hardship on me and my family. Of course this does not even address the emotional component of all this. I have no children, and Brie is certainly part of my family - like a child. She has gone through an immense amount of pain and suffering because of the negligence of this one veterinarian. It has broken my heart many times to see her suffer so.

At the time this happened, I looked at what my legal recourse could be for this situation and then, animals in AZ were treated simply as property to be replaced if they die. I understand there is now a new law holding veterinarians responsible for negligence. I would like to see Brie's medical expenses, past and future, related to this problem, taken care of by Dr. Alber, as well as any fees related to the filing of this complaint.

I understand this happened a few years ago, but for about six months, I was pretty much just trying to keep Brie alive and save her eyes. Then, my mother became terminally ill, and I had to take care of her. She passed away, and then a month later my other pug passed away. With the amount of grief I've endured these past three years, I was not in a place where I could gather all the correct information and retell Brie's experience in a report such as this - until now. I did, however, keep copies of her vet bills, medication receipts, discharge papers, care instructions, and even the spreadsheets used to keep track of her medications.

Dr. Alber no longer works at Prestige Animal Hospital. He is now at:

Hinley Groves Animal Hospital

Rev 8.14.17

LINDY JETT

Section D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE. All of the veterinarians who have taken care of Brie related to this complaint are listed below. They did not fully print from the original form.

Dr. Dana Caldwell
86 W. Juniper Ave.
Gilbert, AZ 85233
(480) 497-0222

Shery Babyak, DVM
1233 West Warner Road
Chandler, AZ 85224
(480) 732-0018

Joanna Norman, DVM, DACVO
13034 W. Rancho Santa Fe Blvd
Suite 102
Avondale, AZ 85392
(623) 872-3937

Dr. John Graham
2917 S. Dobson Road, #102
Mesa, AZ 85202
(480) 838-2503

Dr. Scott Barnard
2917 S. Dobson Road, #102
Mesa, AZ 85202
(480) 838-2503

Paul Barrett, DVM, DACVO
2316 W. Northern Avenue
Phoenix, AZ 85021
(602) 995-2871

Lisa Felchle, DVM, DACVO
86 West Juniper Avenue
Suite 8
Gilbert, AZ 85233
(480) 635-1110

Carla D. Hibbs, DVM, DACVO
1220 Airway Blvd
El Paso, TX 79925
(915) 701-2661

Ronald Sigler
2316 W. Northern Avenue
Phoenix, AZ 85021
(602) 995-2871

Dr. Zoe Reed
20950 N 29th Ave Suite 100
Phoenix, AZ 85027
(888) 393-8385

Some of the information from section F. ALLEGATIONS and/or CONCERNs, got cut off when printing from your website. It is as follows:

Higley Groves Animal Hospital
1423 S Higley Rd Suite 102
Mesa, AZ 85206
(480) 306-4448

received

8/17/18

Response by Dr. Anthony M. Alber to Arizona State Veterinary Medical Examining Board Case # 19-13

8/14/18

Due to the extended length of time since the date in question, I do not remember the exact details of every conversation and phone call. I will therefore state only what I specifically remember and use the medical record to complete the rest of my account.

On May 21st 2015, Mindy Jett brought her dog Brie in for a heartworm test and Rabies vaccine. The written history for that visit by the technician was that Brie didn't eat that morning and had fallen over after jumping off the couch. (Note: the handwritten exam sheet for Brie's visit is not currently in my possession. This sheet was created for every patient and every appointment at Prestige Animal Clinic during my ownership and subsequent employ, and would contain additional notes written by the technician, after inquiring about vomiting, diarrhea, eating, drinking, coughing and sneezing, travel history, and medications the patient was currently taking, etc. Since the technician noted only that Brie didn't eat that morning in the electronic record, I am assuming that the other history questions were all normal. Sometime after I left Prestige Animal Clinic, they began converting their paper to a complete paperless system, scanning handwritten records into a digital medical record. I will try to locate this additional piece of medical record, but I no longer work at Prestige Animal Clinic and have no direct access to their medical records.)

Brie's Temperature, Pulse and Respiration were normal on that date. Her weight was increased from 24 pounds to 26 pounds since her last visit in 2013. Her body condition was documented at 5 out of 5.

Her physical exam showed a ventral iris pigmentation, dental calculus and mild gingivitis, that she was overweight, and had decreased range of motion in her hips. (Note: we had previously documented moderate to severe hip osteoarthritis in Brie's hips.) I performed a neurologic exam which showed no neurologic deficits.

In my assessment, I reiterated that Brie had osteoarthritis, but the stumble after jumping off the couch could be abnormal for her. I was suspicious of incoordination from a neurologic problem before or even after her fall that morning, but the physical exam did not support this.

I offered a trial of an NSAID for arthritic or inflammatory pain, Mrs. Jett declined that. I offered to fill the medication for her later if she felt Brie needed help for pain. Instead of just a Heartworm 4DX test in-house, I recommended she run a larger blood panel that would be sent to Idexx (which also included a heartworm test). I always recommend a larger panel for senior patients, for patients taking ongoing medications, and for patients who seem ill or otherwise concerning to their owners. This panel contains more information about the overall health of a pet than just the heartworm results - it contains a chemistry panel and full CBC. (Note: In retrospect, this could have identified IMHA if it was present in an early stage at the time of that visit). Mrs. Jett declined the larger bloodwork panel. She elected instead for the in-house Heartworm 4DX test which was negative. I wrote a written Rx for her heartworm prevention medication per her request.

I then administered the Rabies vaccine one of my most trusted technicians had prepared for Brie. Immediately after administering the vaccine, I realized that the vaccine was the Merial Purevax recombinant Rabies vaccine for cats, not the Rabies vaccine I also carry for dogs/cats. This particular technician had been working for me for over 5 years, and was a senior technician. She was very capable, but simply made a mistake and drew up the wrong vaccine. I did not recognize the mistake until I saw the vaccine sticker, after giving the vaccine to Brie. I immediately informed Mrs. Jett of the mistake, took full responsibility, and apologized. I did not vaccinate Brie with the canine Rabies vaccine, but told Mrs. Jett that I would call the manufacturer to get information about any potential side effects. I did tell her then that I did not suspect there would be any side effects. I was unable to reach the Merial customer service that evening (they were closed) to report the event, so I called an Animal Product Safety Hotline, got a Case #150066805, and spoke to Dr. Lopez. She didn't expect any side effects of this vaccine other than the possibility of a typical anaphylactic vaccine reaction. I let Mrs. Jett know this information that evening. I was leaving town the next day and would call Merial to create an official case number with them once I got back.

While out of town, my technician called me about Brie on 5/23/15. She had spoken to Mrs. Jett and Brie was not doing well. I offered to have another Doctor at Prestige examine Brie, which Mrs. Jett initially scheduled but later canceled to take Brie to an emergency hospital, where she was initially diagnosed with IMHA. (Note: at the appointment at the emergency clinic on 5/23, Mrs. Jett stated in her history that Brie had been very lethargic for 4 or 5 days, which clearly would have included her visit to me at Prestige Animal Clinic. In hindsight, according to this history, Mrs. Jett suspected that Brie had been sick for longer than just after her appointment with me. I suspect that she was correct. I suspect that the IMHA was already present at the time of Brie's visit with me, but it was not severe enough for me to see pale gums, or weak pulses, or an elevated heart rate. But perhaps it was enough to contribute to her stumble and wobbliness. As stated before, she had declined a blood panel that could have confirmed this.)

Per the owner's request, we faxed Brie's medical records to Dobson Ranch Animal Hospital on 5/26/15.

The day I got back into the office, 5/27/15, I filed a case number with Merial, Case #15-33561. I spoke to Dr. Laminack, who put the case into her pharmacovigilance data. She did not suspect the vaccine caused IMHA. There were no reports of side effects from this type of occurrence. I gave this information to Mrs. Jett on the phone.

Per the owner's request, we faxed Brie's medical records to 1st Pet Veterinary Centers on 6/23/15.

On 7/2/15, Mrs. Jett called my technician to say that 4 veterinarians stated that the vaccine caused the IMHA and that she wanted Prestige Animal Clinic to pay the medical bills.

On 7/3/15, I e-mailed all records to my professional liability insurance provider – Thomas Costello Insurance Agency - who forwarded the information to Myrna Nieves – claims examiner.

On 7/21/15, I called Mrs. Jett and left a message letting her know that the insurance company agreed to pay the medical bills to this point and gave her the proper contact information. This was the last I ever spoke to Mrs. Jett, though later documentation states that she did receive payment.

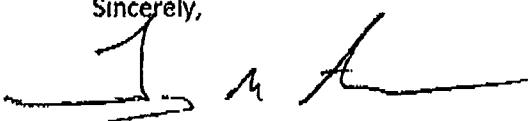
As a caregiver to animals, as a professional medical practitioner, as a confidant and friend to all of my clients, and as an employer of people who love animals with all of their hearts and never, ever wish to do harm, I regret that Brie was given the wrong Rabies vaccine on 5/21/2015. It is ultimately my responsibility to ensure patients under my care get the correct vaccinations. That Brie was given the wrong vaccine has never been disputed. I also sympathize that Mrs. Jett has been given the task of handling a patient with multiple chronic diseases. I have many patients and clients in my care that face the same struggles, with the exact same medical conditions, and I sympathize with them all.

However, as a medical doctor I take issue with a few statements in Mrs. Jett's account. We will never know if the vaccine truly caused the IMHA as Mrs. Jett states. We rarely get direct proof of what causes these immune-mediated conditions. I have diagnosed and managed many cases of IMHA in my career, some in animals that haven't been vaccinated in years. The condition simply sometimes happens for no discernible good reason. I think any vaccine (given to the indicated species or not) could possibly lead to IMHA, as could any other illness or pathology stimulating the immune system. We can speculate forever. But there is no way to directly prove the vaccine's causality of IMHA in this case. As I mentioned before, with hindsight, I suspect Brie already was manifesting with the disease at my visit, but the symptoms were not severe enough to recognize clinically. This might have explained her falling earlier that day. Mrs. Jett even later reported on 5/23 that Brie was "very lethargic for 4 or 5 days", not the same history she gave me 2 days before. I also think that it would be unlikely for a vaccine given at 6:00pm on 5/21, to have initiated an IMHA event that would cause such a severe anemia (PCV of 11%) some 48 hours later. Of course, I cannot be certain about this.

While reviewing the medical records provided by other DVMs in this case, I have seen the incident of the feline Rabies vaccine mentioned in Brie's medical history, but never documented as the cause of her IMHA. I would be interested in reading any medical record regarding this case, especially one written by a board certified specialist, definitively naming the feline vaccine as the cause. Please recall that I obtained 2 expert opinions from Merial and the Product Hotline where they did not feel that the vaccine caused IMHA.

Also in the medical records, I see no documentation given by an ophthalmologist that definitively names IMHA or steroid administration as the cause of KCS (Dry Eye) and subsequent corneal ulcerations. I would also be interested in reading any medical records stating this since I am unaware of any causality of IMHA and steroids causing KCS. I feel that KCS is commonly diagnosed in dogs of her signalment.

Sincerely,



Anthony M. Alber

DOUGLAS A. DUCEY
- GOVERNOR -



VICTORIA WHITMORE
- EXECUTIVE DIRECTOR -

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

1740 W. ADAMS STREET, STE. 4600, PHOENIX, ARIZONA 85007

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INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: PM Investigative Committee: Donald Noah, D.V.M. - Chair
Amrit Rai, D.V.M.
Adam Almaraz - **Absent**
Christine Butkiewicz, D.V.M.
William Hamilton

STAFF PRESENT: Tracy A. Riendeau, CVT – Investigations
Victoria Whitmore, Executive Director
Michael Raine, Assistant Attorney General

RE: Case: 19-13

Complainant(s): Mindy Jett

Respondent(s): Anthony Alber, DVM (License: 3736)

SUMMARY:

Complaint Received at Board Office: 8/8/18

Committee Discussion: 11/6/18

Board IIR: 12/12/18

APPLICABLE STATUTES AND RULES:

Laws as Amended July 2014

(Salmon); Rules as Revised

September 2013 (Yellow)

On May 21, 2015, "Brie," a 7-year-old female Pug was presented to Respondent for an exam due to difficulty standing and anorexia. The dog was examined, a complete blood panel was declined and the dog was vaccinated for rabies. After the rabies vaccine was administered, it was noted that the dog was given a feline rabies vaccine.

On May 23, 2015, the dog was presented to an emergency facility where she was diagnosed with immune mediated hemolytic anemia.

Complainant was noticed and appeared.

Respondent was noticed and appeared with counsel, David Stoll.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: Mindy Jett
- Respondent(s) narrative/medical record: Anthony Alber, DVM
- Consulting veterinarian(s) narrative/medical record: 1st Pet Veterinary Centers; Eye Care for Animals; Dobson Ranch Animal Hospital; Arizona Veterinary Emergency and Critical Care Center.

PROPOSED 'FINDINGS of FACT':

1. On May 21, 2015, the dog was presented to Respondent for difficulty walking – swaying. Complainant reported that the dog had not eaten that morning and had a behavior change – not moving around. When Complainant returned home, the dog jumped off the couch and fell over. Upon exam, the dog had a weight = 26.8 pounds, a temperature = 102.5 degrees, a heart rate = 140bpm and a respiration rate = 30rpm. Respondent stated that after his exam, he advised Complainant that the dog had osteoarthritis, but the stumble after jumping off the couch could be abnormal for her. He was suspicious of incoordination from a neurologic problem before or even after her fall that day, but the exam did not support this.
2. Respondent offered a trial of an NSAID for pain and recommended a complete blood panel; Complainant declined and elected to have the Heartworm 4DX in-house (negative). He then administered the rabies vaccine that had been prepared by technical staff. Immediately following the vaccine, Respondent realized the vaccine was the Merial Purevax recombinant Rabies vaccine for cats. He informed Complainant of the mistake; he did not suspect there would be side effects however he would contact the manufacturer.
3. Respondent was unable to reach the Merial customer service that evening therefore called the Animal Product Safety Hotline and spoke with Dr. Lopez. Dr. Lopez did not suspect any side effects from the vaccine other than the possibility of a typical anaphylactic vaccine reaction. Respondent reported this information to Complainant.
4. On May 23, 2015, the dog was presented to Dr. Caldwell on emergency for lethargy – duration 4/5 days, off balance 4 days and not eating well for 2/3 days. The dog was also accidentally administered a feline rabies vaccine 3 days prior. Additionally, Complainant reported giving the dog 125mgs of "dog aspirin" the night prior to presentation as well as 3 days prior. Dr. Caldwell performed diagnostics and the dog was hospitalized for treatment. The dog's problems included anemia, tachycardia, tachypnea, anorexia and generalized weakness. The dog's anemia was likely either regenerative vs nonregenerative – rule out immune mediated hemolytic anemia, or precursor immune mediated destruction at the level of the bone marrow, vs secondary immune mediated hemolytic anemia etiologies such as primary neoplasia, or other inflammatory/infectious causes. The dog received IV fluids, packed RBCs, and dexamethasone for treatment. Her PCV rose to 24% from 11% and was discharged on May 25, 2015.
5. On May 26, 2015, the dog was presented to Dr. Thomas at Dobson Ranch Animal Hospital for follow up post emergency visit. Dr. Thomas examined the dog; blood work was performed, medications were administered and dispensed for continued treatment of presumed IMHA – sucralfate, famotidine, continue aspirin, continue prednisone and bland diet. Periodic PCV rechecks were also recommended.
6. On June 24, 2015, the dog was presented to Dr. Babyak at 1st Pet Veterinary Centers to have the dog overseen by an internist. Dr. Babyak noted that the dog was responding to the treatment course initiated elsewhere. Complainant wanted Dr. Babyak to oversee the dog's care as an Internal Medicine Specialist.

7. On July 1, 2015, the dog was presented to Eye Care for Animals and was diagnosed with KCS both eyes, corneal ulcer with bulla to the right eye, IMHA. Dr. Reed noted that the dog had dry eyes OU, is auto-immune problem. The dog was discharged with Elizabethan collar, doxycycline, serum 6, ofloxacin 6, opixcare, tramadol, diphenhydramine, fish oils, coconut oil, glucosamine, Pepcid, pred, CSA and pet tabs. The dog is still currently under the care of Dr. Norman at Eye Care for Animals.

8. In March 2016, the dog was released from care from the Internal Medicine Department.

9. Complainant believes Respondent should be financially responsible for the dog's continued medical care costs as they were a result of the administration of the feline rabies vaccine. Respondent's insurance did cover the cost of the emergency room visit.

10. Respondent does not dispute that the wrong vaccine was administered to the dog, however, there is no way to directly prove the vaccine caused the dog's IMHA. In hindsight, Respondent believes the dog was already manifesting with the disease at the visit but the symptoms were not severe enough to recognize clinically. It could have explained the dog falling earlier that day. Complainant reported at the emergency facility that the dog was lethargic for 4 or 5 days which was not the same history she reported to Respondent.

COMMITTEE DISCUSSION:

The Committee discussed that the feline rabies vaccine was formulated to address a certain issue with cats but that does not mean that it is unsafe for dogs. The rabies antigen in the feline vaccine would have been the same antigen in the canine vaccine.

There is a killed virus rabies vaccine that is used on both dogs and cats. To address the issue for feline sarcoma, the live attenuated canary pox vaccine was created which is what the dog received; the virus that the vaccine is addressing is the same. The feline rabies was created to minimize vaccine site sarcomas in cats. It is possible that the vaccine triggered the IMHA and if the correct vaccine was administered, it was just as likely that it too could have triggered IMHA.

The ophthalmologist stated that the IMHA did not cause the subsequent dry eye issues in the dog.

The Committee also discussed that Respondent addressed these issues at the time the incident occurred. He immediately notified the pet owner that he gave the feline rabies vaccine, apologized and took responsibility for it. The emergency fees were reimbursed.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that no violations of the Veterinary Practice Act occurred.

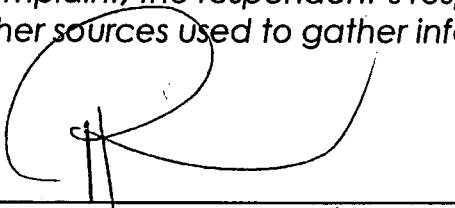
COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board:

Dismiss this issue with no violation.

Vote: The motion was approved with a vote of 4 to 0.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.



Tracy A. Riendeau, CVT
Investigative Division